



Public Sector

We have a very strong public sector practice in the UK, our range of clients spans local government, regional authorities such as transport authorities, through to central government bodies including the cabinet office.

We advise public sector bodies procuring major infrastructure projects on every legal aspect from developing the procurement strategy, producing and negotiating contractual documentation, tax structuring, forms of delivery, and risk allocation between the public and private sector.

Many procuring authorities are facing pressure currently to vary signed PPP contracts to reduce expenditure and we have extensive experience in advising in respect of operational projects across all sectors.

We advise on the full spectrum of energy and infrastructure projects, which includes:

- Airports and aerospace;
- Education;
- Energy and utilities;
- Healthcare;
- Highways maintenance and street lighting;
- Ports;
- Prisons and social justice;
- Rail;
- Roads, tunnels and crossings;
- Social housing; and
- Stadiums and sporting venues.

CAPABILITES

We are active in sectors such as energy and utilities, transport (heavy and light rail, buses, roads, bridges and tunnels), defence, aerospace and social infrastructure. All our lawyers advise sponsors and lenders as well as public sector meaning our advice to the public sector is very commercial and focussed on finding a solution which meets their needs but also with the partner they are doing business with. Our capabilities include:

- Developing procurement strategies to ensure they are robust during and after the procurement;
- Supporting the development of the relevant national procurement process (OJEU Notice, EOIs, ITN, ITPDs, BAFOS, CfT etc) and

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managing potential judicial reviews of procurement processes;

- Presenting on commercial and legal issues to key stakeholders including Project Boards, local and central government sponsors;
- Managing multiple bidders and workstreams to a tight programme; and
- Leading legal negotiation with bidders and suppliers; and
- Supporting operational contracts in respect of contract changes, interpretation, potential disputes and disputes, policy and legislative changes, and shareholder or lender changes.

EXPERIENCE

- Mersey Gateway Bridge, UK

Advising the local authority, Halton Borough Council, in relation to its procurement of this high profile, £450 million Mersey river crossing project. The Mersey Gateway Project will build a new 6-lane toll bridge over the Mersey between the towns of Runcorn and Widnes and provide modifications to the existing Silver Jubilee Bridge. The selected contractor will be responsible for the design, build, finance, operation and maintenance.

The DLA Piper team has advised on: procurement and concession structures; contract structuring and risk management, including advising on and drafting the full suite of contractual documentation; and provided advice in respect of legal risks associated with demand risk and tolling, and maintenance and operation of the existing bridge.

The UK Treasury proposed that the UK Guarantee Scheme (a government backed guarantee) be used on the Mersey Gateway Project and we have worked with the Council, bidders, Government and Treasury to assist bidders to take advantage of the credit enhancement options available for the project in the context of a live procurement, understanding the implications of those options on PPP documentation and supporting the development of proposals involving a UK Guarantee alongside project finance and capital markets solutions as part of a competitive dialogue competition.

- Birmingham Highways Maintenance PFI Project

We advised Birmingham City Council on this innovative highways maintenance project, which reached financial close in May 2010 with Amey plc as service provider. As a pathfinder project for the first highways maintenance project on a full PFI structure, some aspects of this project were particularly complex and we drafted the full suite of documentation, including the output specification (in conjunction with MottMac) and the payment mechanism. These later became the precedent documents for procurements of this nature across the UK. Furthermore, at £2.7 billion, the project is one of the largest local authority procurements in Europe. The project was awarded the Partnerships Bulletin's Best Transport Highways Maintenance Award 2011 and European PPP deal of 2010.

- Nottingham Express Transit Phase Two

Advised Nottingham City Council in connection with the design, construction, finance and commissioning of Phase Two of the Nottingham Express Transit light rail system which includes two new lines to create an integrated network and any future extensions, together with the operation and maintenance of the entire extended network including NET Line One over a period of approximately 23 years. Unusually, this complex £570m PFI project also involved a corporate acquisition by a local authority of the incumbent concessionaire. DLA Piper was commended for its role in this project in the FT's 'Most Innovative Firms in Finance Law' awards 2012.

- Sheffield Highways Maintenance PFI Project

Advised Sheffield City Council in respect of their £2 billion highways maintenance and street lighting PFI project, which deals with the rehabilitation and ongoing maintenance of over 2,000 km of carriageways and footways, 350 bridges and other structures. Financial close was reached in Summer 2012 with Amey, its private sector contractor, for a 25 year contract

- Department for Education

Since 2007 we have advised the UK Department for Education on the PFI Academies programme, which includes drafting the model documents and facilitating conversion of schools within the PFI schemes to Academy status. To date we have advised on the conversion of over 120 schools. Leeds Independent

- Living Non-HRA PFI Project

We advised Leeds City Council on this c.£60 million non-HRA supported living project across 39 sites in Leeds which closed in June 2008. The project has provided registered care homes, registered children's homes, a range of flats, houses and bungalows across the city for people with learning disabilities, and includes specialist units for people with autism, challenging behaviour and early onset dementia. Since financial close we have continued to advise on operational aspects, including a variation to project scope to allow for the construction of an additional children's home using funding from another central government department.

- Highways Agency, M25 DBFO

Another helpful example of a complex operational example on which we are acting is the M25 DBFO, one of the largest most complex roads projects to be procured in the last 15 years. We are advising the UK Highway Agency providing operational support and strategic advice on the implementation of a number of significant contract changes to this 30-year contract.

INSIGHTS

Publications

Developments in Public Procurement Law - May 2022

12 May 2022

PROCUREMENT PULSE SERIES

In this issue we report on two recent English High Court decisions and developments in UK and Scottish public procurement policy, guidance and reform.

Building faster, better and greener - accelerating and improving delivery

5 January 2021

The latest part in this series of publications on the government's long awaited National Infrastructure Strategy 2020 will consider "Chapter 5 – building faster, better and greener", which builds on the government's infrastructure reform programme, Project Speed.

Supporting private investment

21 December 2020

The UK is an attractive destination for private investment in infrastructure, with the Government estimating that over GBP200 billion has been invested in the last decade in the water and energy sectors alone. Chapter 4 of the National Infrastructure Strategy looks at the importance of private investment to funding new infrastructure.

Decarbonising the economy and adapting to climate change

9 December 2020

Chapter three of the NIS stems from the central objective of meeting the UK's net zero emissions target by 2050. The proposed measures include both the deployment of existing technology and the development of newer technologies, and are closely related to the Prime Minister's Ten Point Plan for a Green Industrial Revolution.

Levelling up the whole of the UK

7 December 2020

In the foreword to the NIS, the Prime Minister states that "*levelling up is my government's core purpose*". The intention is to level up communities and nations across the UK through investment in rural areas, towns and cities on a range of projects covering those of major national importance and those which address local priorities.

An introduction and summary of the key points

2 December 2020

An introduction and summary of the key points in the National Infrastructure Strategy, the UK government's recently published plan to "build back better, to create world-class infrastructure across the whole UK, and to transform people's lives for decades to come."

Three tier UK coronavirus local lockdowns

14 October 2020

New lockdown regulations came into force in England on 14 October 2020, creating a three-tier system of restrictions to address local outbreaks of COVID-19.
